

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John M. Rosevear

Serial No.: 10/698,758

Group Art Unit: 2854

Filed: October 31, 2003

Examiner: Leo T. Hinze

Title: ANGULAR TWILIGHT CLOCK

Attorney Docket No.: 65,657-009

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sirs:

In response to the Final Office Action dated June 27, 2006, Applicant respectfully requests pre-appeal review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The pre-appeal review is requested for the reasons stated immediately below in the Remarks.

REMARKS

Applicant respectfully asserts that a variety of clear errors have been made in the Examiner's final §103 rejections as set forth in detail in the Office Action of June 27, 2006. As such, Applicant asserts that the Examiner has not established the requirements for a *prima facie* rejection of the claims based on 35 U.S.C. §103.

Independent claim 1 of the present application requires, in part;

a memory for storing a day sequence including **time for the beginning and ending of twilight** and sunrise and sunset for each **calendar day** of the year for various **coordinate positions...** (emphasis added)

a receiver for receiving a **current coordinate position in latitude and longitude**, a **current calendar day**, and a current time; (emphasis added)

a register operatively connected to said memory and said receiver for registering a **current coordinate position in latitude and longitude**, a **current calendar day...** (emphasis added)

a display operatively connected to said register and said memory for presenting the current time on an analog clock face with **pie-shaped sections for twilight**. (emphasis added)

and independent claim 7 requires, in part;

storing a day sequence including times for the **beginning and ending of twilight** and sunrise and sunset for each **calendar day** of the year for various **coordinate positions ...** (emphasis added)

registering a **current coordinate position in latitude and longitude...** (emphasis added)

retrieving a stored day sequence from the memory corresponding to the registered **current coordinate position** and **current calendar day...** (emphasis added)

presenting the current time on a circular clock face with **pie-shaped sections for twilight**. (emphasis added)

The Examiner has maintained that claims 1 and 7 would have been obvious over U.S. Patent 6,901,032 to Eo et al. in view of U.S. Patents 4,669,891 to Rosevear and 6,310,547 to Parker. The Applicant respectfully submits that the Examiner has failed to establish the requirements for a *prima facie* rejection of claims 1 and 7 based on 35 U.S.C. §103.

As argued in the April 17 Amendment on pages 11-13, the device in Eo discloses a device for displaying time and the time for sunrise and sunset based on the month for a specific place (col. 2, ln. 18). Eo specifically states that due to variations on the angle between the sunrise and sunset time designating section and a reference line on the device, the device lacks flexibility and a different device is required for use in foreign countries (col. 3, ln. 22-34). Therefore, Eo only discloses indicating the time for sunrise and sunset based on the specific geographic location of the timepiece for a given month. Furthermore, while the apparatus disclosed in Eo uses a bottom plate and lines extending from the center to indicate the finite times for sunrise and sunset, the device cannot be modified to indicate twilight. This is because twilight is not a finite time, but rather a span of time which varies based on the day of the year. Therefore, Eo also fails to disclose, teach, or suggest displaying twilight and its span of time representing a duration having a first 28 and a second 30 boundary.

As also argued in the April 17 Amendment on pages 12 and 13, Rosevear discloses a display which presents the current time and a vertical band of twilight at separate positions on a screen (col. 4, ln. 10). Additionally, Rosevear discloses displaying time for twilight and sunrise and sunset for each calendar day of the year corresponding to various area codes. An area code is not the same as a coordinate position. Those skilled in the art will appreciate that while a coordinate position is known to be a finite geographic position, determined by latitude and longitude, a position determined by area code can span upwards of several hundred square miles and into different time zones. For example, the entire state of Idaho has an area code of 208, even though Idaho is split into two different time zones. This means that based on area code alone, a person may end up receiving a time and a time for twilight and sunrise and sunset which is incorrect by at

least one hour based on area code alone. Additionally, while Rosevear discloses a vertical band for twilight, Rosevear does not disclose, teach, or suggest displaying twilight on an analog clock face as pie-shaped sections.

Also argued in the April 17 Amendment on pages 13 and 14, Parker discloses a home security system which adjusts activation and deactivation times of an alarm system based on current sunrise and sunset times for a coordinate position of the alarm panel. The Examiner's rejection states that it would have been obvious to modify Eo to include the ability to designate the location of the user by longitude and latitude in addition to area code because the functionality of the device would be increased in places not having area codes. However, the times for sunrise and sunset are finite times and are, therefore, not equivalent to twilight duration. The Applicant has argued that Parker fails to disclose, teach, or suggest calculating twilight duration and presenting twilight as a pie-shaped section on an analog clock face.

For these reasons, the Applicant contends that the Examiner has clearly failed to establish *prima facie* case of obviousness of claims 1 and 7 of the present application over Eo in view of Rosevear and in further view of Parker, the Examiner is clearly using hindsight to modify the combined teachings and suggestions of Eo and Parker, and the Examiner's error is apparent enough to dispose of prior to the preparation and filing of an Appeal Brief.

Based on the above summary and the correspondence of record, the Applicant believes that Examiner's position that claims 1 and 7 are obvious over Eo in view of Rosevear and in further view of Parker is clearly in error, and respectfully request review of the Examiner's position relative to the display of pie shaped sections for twilight on an analog clock face based on a coordinate position in latitude and longitude for specific calendar days, as claimed in the present application, prior to the Applicants filing a formal Appeal Brief. Accordingly, these rejections should be withdrawn and any rejections to the claims which depend from claims 1 and 7 should also be withdrawn. Based on the above summary and the correspondence of record, Applicant believes that the claims in the present application are in condition for allowance.

The Commissioner is authorized to charge the Deposit Account No. 08-2789, in the name of Howard & Howard Attorneys, P.C., for any fees or credit the account for any overpayment.

The undersigned is an attorney acting under 37 CFR 1.34.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

/Matthew Binkowski/

Matthew Binkowski, Reg. No. 58,530
The Pinehurst Office Center, Suite 101
39400 Woodward Avenue
Bloomfield Hills, MI 48304-5151
(248) 645-0302

Dated: September 27, 2006